## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

| UN | IITED STATES OF AMERICA  | )   |
|----|--|---|
|    | Plaintiff,   | ) 8:05CR443<br>)  |
|    | vs.  | ) DETENTION ORDER   |
| JO | SE GARCIA,   |   |
|    | Defendant.   | <b>,</b>  |
| A. | Order For Detention After conducting a detention hearing pursual Act on March 30, 2007, the Court order pursuant to 18 U.S.C. § 3142(e) and (i).   | ant to 18 U.S.C. § 3142(f) of the Bail Reform rs the above-named defendant detained   |
| B. | The Court orders the defendant's detention  X By a preponderance of the evid conditions will reasonably assure the X By clear and convincing evidence that   |   |
| C. | distribute in excess of 50 violation of 21 U.S.C. § years imprisonment an distribution of methamph § 841(a)(1) carries a min and a maximum of forty with intent to distribute m 21 U.S.C. § 841(a)(1) ca imprisonment.  (b) The offense is a crime of the offense involves a maximum of forty with intent to distribute m 21 U.S.C. § 841(a)(1) ca imprisonment.  (b) The offense involves a maximum of forty with intent to distribute m 21 U.S.C. § 841(a)(1) ca imprisonment. | g: ne offense charged: ny to distribute and possess with intent to no grams of methamphetamine (Count I) in 846 carries a minimum sentence of ten not a maximum of life imprisonment; the netamine (Count III) in violation of 21 U.S.C. num sentence of five years imprisonment nyears imprisonment; and the possession nethamphetamine (Count IV) in violation of not rries a maximum sentence of twenty years of violence. narcotic drug. narcotic drug. narcotic drug. narcotic drug. |
|    | may affect whet The defendant h X The defendant h X The defendant h X The defendant is The defendant ities. Past conduct of The defendant h  | of the defendant including: appears to have a mental condition which her the defendant will appear. has no family ties in the area. has no steady employment. has no substantial financial resources. s not a long time resident of the community. does not have any significant community  |

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| X   | <ul> <li>The defendant has a significant prior criminal record.</li> <li>The defendant has a prior record of failure to appear at court proceedings.</li> </ul> |  |
|---|---|--|
| (b) At th   | e time of the current arrest, the defendant was on:   |  |
|   | _ Probation<br>Parole   |  |
|   | Release pending trial, sentence, appeal or completion of  |  |
| (a) Othe  | sentence.<br>er Factors:  |  |
| (C) Office  | The defendant is an illegal alien and is subject to   |  |
|   | deportation.  |  |
| X   | _ The defendant is a legal alien and will be subject to   |  |
|   | deportation if convicted.   |  |
|   | The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal.  |  |
|   | Other:  |  |
|   |   |  |
| X (4) The nature and seriousness of the danger posed by the defendant's |   |  |
|   | as follows: The nature of the charges in the Indictment and the fugitive status for over a year.  |  |
| dolondant   | ragilive status for ever a year.  |  |
|   | <u>Presumptions</u>   |  |
|   | ing that the defendant should be detained, the Court also relied  |  |
|   | ving rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) Court finds the defendant has not rebutted:   |  |
|   | no condition or combination of conditions will reasonably   |  |
|   | ire the appearance of the defendant as required and the safety  |  |
|   | y other person and the community because the Court finds that   |  |
| the o   | crime involves:   |  |
|   | (1) A crime of violence; or   |  |
| X_  | <ul> <li>(2) An offense for which the maximum penalty is life<br/>imprisonment or death; or</li> </ul>  |  |
| _X_   |   |  |
| <u></u>   | penalty of 10 years or more; or   |  |
|   | (4) A felony after the defendant had been convicted of two  |  |
|   | or more prior offenses described in (1) through (3)   |  |
|   | above, and the defendant has a prior conviction for one   |  |
|   | of the crimes mentioned in (1) through (3) above which is less than five years old and which was committed  |  |
|   | while the defendant was on pretrial release.  |  |
| X (b) That  | no condition or combination of conditions will reasonably   |  |
| assu  | re the appearance of the defendant as required and the safety   |  |
|   | e community because the Court finds that there is probable  |  |
|   | se to believe:  |  |
| _X_   | <ul> <li>(1) That the defendant has committed a controlled<br/>substance violation which has a maximum penalty of</li> </ul>                                    |  |
|   | 10 years or more.   |  |
| _   | (2) That the defendant has committed an offense under 18  |  |
|   | U.S.C. § 924(c) (uses or carries a firearm during and in  |  |
|   | relation to any crime of violence, including a crime of   |  |
|   | violence, which provides for an enhanced punishment   |  |
|   | if committed by the use of a deadly or dangerous weapon or device).   |  |
|   | weapon or device).  |  |

## **DETENTION ORDER - Page 3**

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

- The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and
- The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: April 2, 2007. BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge